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12 CFR Ch. I (1–12 Edition)

- 160.170 Records for lending transactions.
- 160.172 Re-evaluation of real estate owned.
- 160.210 [Reserved]
- 160.220 [Reserved]

AUTHORITY: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1701j–3, 1828, 3803, 3806, 5412(b)(2)(B); 42 U.S.C. 4106.

SOURCE: 76 FR 49030, Aug. 9, 2011, unless otherwise noted.

§ 160.1 General.

(a) *Authority and scope.* This part is being issued by the OCC under its general rulemaking and supervisory authority under the Home Owners' Loan Act (HOLA), 12 U.S.C. 1462 *et seq.*

(b) *General lending standards.* Each savings association is expected to conduct its lending and investment activities prudently. Each association should use lending and investment standards that are consistent with safety and soundness, ensure adequate portfolio diversification and are appropriate for the size and condition of the institution, the nature and scope of its operations, and conditions in its lending market. Each association should adequately monitor the condition of its portfolio and the adequacy of any collateral securing its loans.

§ 160.2 Applicability of law.

State law applies to the lending activities of Federal savings associations and their subsidiaries to the same extent and in the same manner that those laws apply to national banks and their subsidiaries.

§ 160.3 Definitions.

For purposes of this part and any determination under 12 U.S.C. 1467a(m):

Consumer loans include loans for personal, family, or household purposes and loans reasonably incident thereto, and may be made as either open-end or closed-end consumer credit (as defined at 12 CFR 226.2(a)(10) and (20)). Consumer loans do not include credit extended in connection with credit card loans, bona fide overdraft loans, and other loans that the savings association has designated as made under investment or lending authority other than section 5(c)(2)(D) of the HOLA.

Credit card is any card, plate, coupon book, or other single credit device that

may be used from time to time to obtain credit.

Credit card account is a credit account established in conjunction with the issuance of, or the extension of credit through, a credit card. This term includes loans made to consolidate credit card debt, including credit card debt held by other lenders, and participation certificates, securities and similar instruments secured by credit card receivables.

Home loans include any loans made on the security of a home (including a dwelling unit in a multi-family residential property such as a condominium or a cooperative), combinations of homes and business property (*i.e.*, a home used in part for business), farm residences, and combinations of farm residences and commercial farm real estate.

Loan commitment includes a loan in process, a letter of credit, or any other commitment to extend credit.

Real estate loan, for purposes of this part, is a loan for which the savings association substantially relies upon a security interest in real estate given by the borrower as a condition of making the loan. A loan is made on the security of real estate if:

(1) The security property is real estate pursuant to the law of the state in which the property is located;

(2) The security interest of the Federal savings association may be enforced as a real estate mortgage or its equivalent pursuant to the law of the state in which the property is located;

(3) The security property is capable of separate appraisal; and

(4) With regard to a security property that is a leasehold or other interest for a period of years, the term of the interest extends, or is subject to extension or renewal at the option of the Federal savings association for a term of at least five years following the maturity of the loan.

Small business includes a small business concern or entity as defined by section 3(a) of the Small Business Act, 15 U.S.C. 632(a), and implemented by the regulations of the Small Business Administration at 13 CFR part 121.

Small business loans and *loans to small businesses* include any loan to a small business as defined in this section; or a

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loan that does not exceed \$2 million (including a group of loans to one borrower) and is for commercial, corporate, business, or agricultural purposes.

§ 160.30 General lending and investment powers of Federal savings associations.

Pursuant to section 5(c) of the Home Owners' Loan Act ("HOLA"), 12 U.S.C. 1464(c), a Federal savings association

may make, invest in, purchase, sell, participate in, or otherwise deal in (including brokerage or warehousing) all loans and investments allowed under section 5(c) of the HOLA including, without limitation, the following loans, extensions of credit, and investments, subject to the limitations indicated and any such terms, conditions, or limitations as may be prescribed from time to time by the OCC by policy directive, order, or regulation:

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Category	Statutory authorization ¹	Statutory investment limitations (Endnotes contain applicable regulatory limitations)
Bankers' bank stock	5(c)(4)(E)	Same terms as applicable to national banks.
Business development credit corporations	5(c)(4)(A)	The lesser of .5% of total outstanding loans or \$250,000.
Commercial loans	5(c)(2)(A)	20% of total assets, provided that amounts in excess of 10% of total assets may be used only for small business loans.
Commercial paper and corporate debt securities.	5(c)(2)(D)	Up to 35% of total assets. ^{2,3}
Community development loans and equity investments.	5(c)(3)(A)	5% of total assets, provided equity investments do not exceed 2% of total assets. ⁴
Construction loans without security	5(c)(3)(C)	In the aggregate, the greater of total capital or 5% of total assets.
Consumer loans	5(c)(2)(D)	Up to 35% of total assets. ^{2,5}
Credit card loans or loans made through credit card accounts.	5(c)(1)(T)	None. ⁶
Deposits in insured depository institutions	5(c)(1)(G)	None. ⁶
Education loans	5(c)(1)(U)	None. ⁶
Federal government and government-sponsored enterprise securities and instruments.	5(c)(1)(C), 5(c)(1)(D), 5(c)(1)(E), 5(c)(1)(F).	None. ⁶
Finance leasing	5(c)(1)(B), 5(c)(2)(A), 5(c)(2)(B), 5(c)(2)(D).	Based on purpose and property financed. ⁷
Foreign assistance investments	5(c)(4)(C)	1% of total assets. ⁸
General leasing	5(c)(2)(C)	10% of assets. ⁷
Home improvement loans	5(c)(1)(J)	None. ⁶
Home (residential) loans ⁹	5(c)(1)(B)	None. ^{6,10}
HUD-insured or guaranteed investments ..	5(c)(1)(O)	None. ⁶
Insured loans	5(c)(1)(I), 5(c)(1)(K)	None. ⁶
Liquidity investments	5(c)(1)(M)	None. ⁶
Loans secured by deposit accounts	5(c)(1)(A)	None. ^{6,11}
Loans to financial institutions, brokers, and dealers.	5(c)(1)(L)	None. ^{6,12}
Manufactured home loans	5(c)(1)(J)	None. ^{6,13}
Mortgage-backed securities	5(c)(1)(R)	None. ⁶
National Housing Partnership Corporation and related partnerships and joint ventures.	5(c)(1)(N)	None. ⁶
New markets venture capital companies ..	5(c)(4)(F)	5% of total capital.
Nonconforming loans	5(c)(3)(B)	5% of total assets.
Nonresidential real property loans	5(c)(2)(B)	400% of total capital. ¹⁴
Open-end management investment companies ¹⁵ .	5(c)(1)(Q)	None. ⁶
Rural business investment companies	7 U.S.C. 2009cc-9	Five percent of total capital.
Service corporations	5(c)(4)(B)	3% of total assets, as long as any amounts in excess of 2% of total assets further community, inner city, or community development purposes. ¹⁶
Small business investment companies	15 U.S.C. 682(b)(2)	5% of total capital.
Small business-related securities	5(c)(1)(S)	None. ⁶